Attachment A

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

NORTHERN ILLINOIS GAS COMPANY D/B/A NICOR GAS COMPANY	:	
	:	No. 04-0779
Proposed general increase in rates, and revisions to other terms and conditions of service.	:	

PARTIAL DRAFT PROPOSED ORDER[1]

Submitted By:

Constellation NewEnergy – Gas Division, LLC

DATED: July 5, 2005

[1] Pursuant to the schedule adopted by the ALJs, Constellation NewEnergy – Gas Division, LLC ("CNE-Gas") is submitting a "Partial" Draft Proposed Order that solely addresses the issues that it addressed in the instant proceeding. CNE-Gas has reviewed the Draft Proposed Order submitted by Nicor Gas on June 28, 2005. In an effort to assist the ALJs and for ease of comparison, CNE-Gas had requested that Nicor Gas provide a word version of the Nicor Gas Draft Proposed Order. Nicor Gas refused CNE-Gas' request. Instead, the attached Partial Draft Proposed Order contains CNE-Gas' recommendations on the limited issues that it addressed in the instant proceeding.

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By the Commission:

I. Procedural History

II. Cost of Service, Rate Design, and Tariff Terms and Conditions

A.

B. Rates, Riders, and Other Terms

1. Rider 6

a. Allocation of Hub Expenses Through Revenue Requirement; Hub Revenues

Nicor Gas' Proposal

Nicor Gas initially proposed that collected net Hub revenues should be credited to customers through Rider 6, as a partial offset to Nicor Gas' proposal to include commodity-related uncollectibles expenses in Rider 6. (Nicor Gas Ex. 8.0)

Staff's Position

Staff took issue with Nicor Gas' initial proposal to include net Hub revenues in Rider 6. (Staff Ex. 8.0) However, Staff is in agreement with Nicor Gas' rebuttal position that collected gross revenues from Hub services should be credited to consumers through Rider 6 and Hub administration expenses should be recovered through base rates if the Company is able to address Staff's concern over the inequitable treatment of transportation customers through implementation of a credit to transportation customers via the PGA. (Staff Initial Brief at 107.)

IIEC's Position

IIEC has objected to the crediting of collected Hub revenues through Rider 6, arguing that transportation customers should share in these revenues. (IIEC Ex. 1) IIEC argued that Hub

revenues are derived from Nicor Gas' provision of interruptible transportation and storage services. (*Id.*) IIEC concluded that these revenues do not directly correlate with the prices of gas and thus are not commodity related. (*Id.*) Furthermore, IIEC claims that the Hub revenues are not equivalent to the types of expenses normally passed through a PGA rider, i.e. they are not volatile, significant, or beyond the control of Nicor Gas. (*Id.*) IIEC proposed that the test year amount of net Hub revenues be used to reduce the embedded cost of storage for establishing the SBS charge or that the net revenues be returned via a rider that applies to all customers on the basis of total thru-put volume. (*Id.*)

Vanguard's Position

Vanguard has expressed a view similar to that of IIEC, arguing that transportation customers should also share in the credit of Hub revenues. (Vanguard Ex. 1)

RGS' Position

RGS has also expressed a view similar to that of IIEC and Vanguard. (RGS Ex. 1.0) RGS claimed that Nicor Gas' proposal is discriminatory towards transportation customers. (*Id.*) RGS asserted that Nicor Gas' proposal attempts to mitigate the impact on sales customers of other rate design issues such as the inclusion of uncollectibles in Rider 6. (*Id.*) RGS claimed that all customers pay for the assets which support Hub services and therefore all customers should receive the benefit of the Hub revenues. (*Id.*)

CNE-Gas' Position

CNE-Gas urges the Commission to reject Nicor's proposal to credit Hub revenues solely to sales customers. (CNE-Gas Reply Brief at 8.) CNE-Gas avers that the cost of the assets that are used to provide Hub Services are recovered through the base rates of **all sales, transportation and Customer Select customers**, therefore it is discriminatory to credit these revenues only to sales customers.

Nicor Gas' Response

As stated, Nicor Gas and Staff subsequently agreed that gross revenues from Hub services collected by Nicor Gas should be credited to sales customers through Rider 6, and that the administration fees associated with these revenues, which have been forecast at $1,079,000 in 2005, should be recovered as operating expenses through base rates. (Nicor Gas Exs. 24.0, 39.0) Nicor Gas stated that Hub revenue can vary substantially from year to year, changing with among other things with the price of gas, gas price spreads, and the availability of resources to provide Hub services. (Nicor Gas Exs. 8.0, 24.0, 39.0) Much of the revenue generated is derived from the value that suppliers can obtain based on forward gas prices, which have proven to be very volatile over the past few years. (Nicor Gas Exs. 24.0, 39.0)

Nicor Gas stated that much of the ability to provide Hub services comes from the fact that transportation customers operate for their own financial benefit which results in increased gas costs to sales customers. (Nicor Gas Exs. 24.0, 39.0) As a result, Nicor Gas stated, there are times when services can be made available for short periods. (Nicor Gas Exs. 24.0, 39.0) In addition, the bulk of Nicor Gas' purchased assets are used for two purposes, to: (1) supply gas

for sales customers, and (2) support and operate the system for the benefit of all customers. (Nicor Gas Exs. 24.0, 39.0) However, for all intents and purposes, these costs are recovered from sales customers. (Nicor Gas Exs. 24.0, 39.0; Tr. 538 – 539) As sales customers are exposed to costs resulting from transportation customers exercising their ability to manage gas supplies for their own financial interests and gas costs associated with operating the system for the benefit of all customers, it is appropriate to return collected gross Hub revenues to sales customers.

The Commission's Conclusion

The basic disagreement amongst the parties is whether the transportation customers should also be included in the credit of Hub revenues. Nicor Gas and Staff have not shown that that use of a rider (Rider 6) is an appropriate mechanism to credit Hub revenues. Nicor Gas and Staff have not shown that the assets used to provide Hub services are paid for exclusively by sales customers. Staff is willing to accept Nicor's proposal to credit Hub revenues to Rider 6 if Nicor can develop a credit to transportation customer via the PGA that addresses this inequity. However, none of the details regarding the crediting mechanism have been entered into the record of the instant proceeding.

Therefore, the Commission rejects Nicor's proposal and finds that gross revenues from Hub services collected by Nicor Gas should not be credited to customers through Rider 6, and that the administration fees associated with these revenues are allowed as operating expenses to be collected through base rates. Nicor Gas should continue its current practice of both crediting Hub revenues and collecting operating expense through base rates for both sales and transport customers.

b. Commodity Portion of Uncollectibles

Nicor Gas' Proposal

Nicor Gas has proposed to recover commodity-related uncollectibles expenses in Rider 6. (Nicor Gas Exs. 12A.0, 8.0) Nicor Gas presented both the grounds for this proposal as well as documentation of the statistical analysis performed to split commodity-related uncollectibles expenses from other uncollectibles expenses. (Nicor Gas Exs. 12A.0, 15.0, 8.0)

Staff's Position

Staff disagreed with Nicor Gas' proposal to include commodity-related uncollectible expenses in Rider 6. (Staff Ex. 1.0) In addition, if Nicor Gas' proposal were to be adopted, Staff proposed to review annually the percentage of uncollectibles to pass through Rider 6 as commodity related. (Staff Ex. 1.0)

CUB/CCSAO's Position

CUB/CCSAO argues that Nicor Gas's proposal to recover commodity related uncollectibles through Rider 6 constitutes single-issue ratemaking and should be rejected for this and other reasons. (CUB/CCSAO Ex. 2.0)

DRI's Position

DRI agreed with Nicor Gas' proposal to pass the commodity-related uncollectibles through Rider 6. (DRI Ex. 1)

RGS' Position

RGS also supported Nicor Gas' proposal. (RGS Ex. 1.0)

CNE-Gas' Position

CNE-Gas is indifferent to which mechanism it ultimately selected, but does urge the Commission to require an approach which eliminates the current practice of collecting commodity-related uncollectible expense from transportation and Customer Select customers that do not purchase such services from Nicor Gas.

Nicor Gas' Response

As previously stated, DRI and RGS support Nicor Gas' proposal. Nicor Gas states that Staff's and CUB/CCSAO's objections to the proposal, including Staff's objections based on an incorrect interpretation of the purposes of the PGA, 220 ILCS 5/9-220, are without merit; Nicor Gas' commodity-related uncollectibles expenses improve the accuracy of the PGA reconciliation mechanism by better reflecting Nicor Gas' actual costs and revenues relating to the cost of gas, are includable under 83 Ill. Adm. Code Part 525, and should be included in the interests of customers as well as Nicor Gas. (Nicor Gas Exs. 12A.0, 27A.0, 34.0) Nicor Gas states that Staff's related, alternative proposal that a recalculation of the split between commodity-related and other uncollectibles expenses should occur each year also is without merit. (Nicor Gas Exs. 27A.0, 34.0) According to Nicor Gas, the current calculation presented in this proceeding is accurate and Staff's proposed annual review is an unnecessary burden on both Nicor Gas and the Commission. (Nicor Gas Exs. 27A.0, 34.0)

Commission Conclusion

Nicor Gas has presented a detailed, statistically valid analysis of the appropriate amount of uncollectibles associated with the cost of gas. In addition, all of the parties recognize that transportation customers should not be charged for the commodity related uncollectible expenses of Nicor Gas' customers. Nicor Gas has shown that the inclusion of commodity related uncollectibles in Rider 6 will improve the accuracy of the PGA reconciliation mechanism. The recovery of uncollectibles through the PGA will better reflect the actual cost of gas and recoveries of such costs. Therefore, the Commission approves Nicor Gas' proposal to pass commodity related uncollectibles through Rider 6.

6. Elimination of Rate 81 – Energy Transportation; Elimination of Rate 11 – Energy Service

Nicor Gas' Proposal

Nicor Gas proposes to eliminate Rate 11 and Rate 81, which are special sales and transportation rates applicable to gas used as fuel for producing electricity for the customer's use, or for co-generation. (Nicor Gas Ex. 12B.0) These rates have been in the process of being phased-out for over ten years, since Nicor Gas' last general rate case, and no new customers have been permitted to use these rates since that time. (*Id.*) Rates 11 and 81 were developed as promotional rates to encourage on-site generators to use natural gas. (*Id.*) The promotional nature of the rates meant that customers under these rates made a lower contribution to fixed costs than similar customers not eligible for these rates. (*Id.*) Nicor Gas proposes that going forward, the 55 active accounts on Rate 11 and the 32 active accounts on Rate 81 should be charged rates based on the cost of service to similarly situated customers. (*Id.*) As previously discussed, no party objected to Nicor Gas' proposal to eliminate Rate 11.

Nicor Gas presented evidence that the effect on the customers that will lose these rates is not severe. (*Id.*) Migrating customers to other applicable rates would result in decreased charges to more than 50 customers, and increased charges to 36 customers, all other things being equal. (*Id.*) Of those 36 customers likely to experience increased charges, the average increase is about 6.7% for Rate 11 customers and 3.4% for Rate 81 customers (before the proposed rate increases and including the cost of gas). (*Id.*)

CNE-Gas' Position

CNE-GAS argues that Rate 81 was implemented to encourage the use of natural gas for on-site electric generation. (CNE-GAS Ex. 1.0) According to CNE-GAS, customers made significant capital investments in equipment to take service under Rate 81 and that it would be unfair for Nicor to now potentially strand customers' investments simply due to its desire to no longer honor the tariff. (*Id.*) CNE-GAS also points out that, due to the rate increase in Rate 74, to which Rate 81 customers would be switched, the effective rate increase for these customers may be substantial. (*Id.*) CNE-Gas states that any elimination of Rate 81 or transfer program to another rate class should only take place when the rates of the transferred to class are relatively stable in order to reduce the rate shock to customers impacted by the elimination of their service. (*Id.*)

Nicor Gas' Response

Nicor Gas presented evidence showing that the Rate 11 and 81 customers provide a rate of return which is significantly below the cost of service. (Nicor Gas Exs. 12B.0, 27B.0) Nicor Gas showed that Rate 81 customers were made aware of plans for bringing Rate 81 customers up to full rates; Nicor Gas further established that Rate 81 customers have been aware of these plans for almost ten years. (Nicor Gas Ex. 27B.0) Nicor Gas showed that rates 11 and 81 should be eliminated, and that there is no reason to continue these subsidy rates. (Nicor Gas Exs. 12B.0, 27B.0)

Commission Conclusion

While there was some mention in Nicor Gas' last general rate case – over 10 years ago -- that Nicor Gas intended to phase out Rates 11 and 81, at no time during the past 10 years, did Nicor Gas provide any notice to customers served on Rate 81 that it in fact had any such plans to eliminate the rate. In the instant proceeding, Nicor has proposed to transfer the customers that are currently served under Rate 81 to Rate 74 or 76. The Commission agrees that such a proposal will result in significant rate hikes for such customers.

The Commission is also concerned about the potential for the creation of stranded investments by customers served under Rate 81 based upon the failure of Nicor Gas to provide any meaningful notice about the elimination of this rate option.

Therefore, the Commission will not allow the cancellation of Rates 11 and 81.

8. Rates 74, 76, 77

Nicor Gas discussed the proper development of all of the non-residential rates, including Rates 74, 76, and 77, as reflected in Section IX(B)(5) of this Order. Rates 74, 76, and 77 are Nicor Gas' tariffs for transportation service. Transportation customers purchase their own gas, and can purchase storage service on the Nicor Gas system. The basic thread of Nicor Gas' proposed changes to these tariffs, and the transportation customers' objections to those changes, is how much flexibility and freedom the transportation customers should have using the Nicor Gas system, with the majority of these issues being zero-sum: flexibility given to one class of customers may cause additional costs or loss of flexibility for other customers. (Nicor Gas Ex. 12B.1)

(a) Allocation

(1) Storage Capacity Allocation

Nicor explains that Storage Banking Service, typically called SBS, is a service offered to transportation customers which allows them to serve all or part of their demands from supplies of gas that they have previously stored in Nicor Gas' storage fields. In addition, when transportation customers' deliveries in a day exceed demand, they may store the excess gas in Nicor Gas' fields. Each eligible customer has the right to elect for an annual period the amount of SBS it wishes to take, up to a certain guaranteed amount. (Nicor Gas Ex. 8.0)

The parties have agreed that the amount of SBS to which each transportation customer is entitled is a function of the total available seasonal withdrawal capacity and an allocation among these customers based on each individual customer's Maximum Daily Contract Quantity (MDCQ). The MDCQ is the maximum amount of gas that the customer can require Nicor Gas to deliver on a given day. (Nicor Gas Ex. 8.0)

Nicor Gas' Proposal

Nicor Gas has used the formula approved in the last rate case, ICC Docket No. 95-0219, to determine the allocation of SBS: the estimated amount of gas to be cycled during a year, divided by the estimated peak day send out for the entire system. Based on this calculation Nicor

Gas proposed an SBS allocation of 23 times a customer's MDCQ. This update is reflected in Nicor Gas' proposed Terms & Conditions dealing with transportation services, SBS and Firm Backup Service (Sheet No. 49), and SBS and FBS selections (Sheet No. 50.1). Likewise, Nicor Gas has proposed a conforming change to the level of storage allocated to each Customer Select Group under Rider 16 (Sheet No. 75.7). (Nicor Gas Ex. 8.0)

No party has taken issue with the use of the methodology from Nicor Gas' last rate case or with Nicor Gas' proposed peak day send out of approximately 52,580,000 therms. Nicor Gas used 120 Bcf, which represents the amount of gas that Nicor Gas expects to cycle in a year, as the numerator in the equation. Nicor Gas argues that using 120 Bcf is appropriate because it represents the amount of gas which, given the limitations of the physical storage system, Nicor Gas reasonably plans to cycle. (Nicor Gas Ex. 8.0)

Staff's Position

Staff recommended that the Commission maintain the MDCQ approach as it links allocation to use of storage capacity at peak times. Staff asserted that the correct figure to use for the numerator is Nicor Gas' coincident maximum working gas. Staff calculated averages of coincident maximum working gas over the last three, five, and ten years. Using these figures, Staff calculated a storage allocation of 27 times the customer's MDCQ.

IIEC-CNE-GAS-RGS Position

IIEC, CNE-GAS, and RGS disagreed with Nicor Gas' proposed cycled gas volume of 120 Bcf. They have argued that Nicor Gas should use a figure of 149.74 Bcf, which represents the sum of non-coincident capacity of Nicor Gas' eight storage fields. IIEC, CNE-GAS, and RGS argue that transportation customers should be entitled to an amount based on the capacity of Nicor Gas' storage fields, not what Nicor Gas intends to cycle in a particular year. Using this figure results in a storage allocation of 28.5 times MDCQ. (IIEC/CNE Jt. Ex. 1)

CNE-Gas' Position

CNE-Gas indicates that for the last ten (10) years, under Nicor Gas' existing tariff transportation customers have been allowed to nominate up to 26 times their MDCQ in SBS capacity entitlement. If SBS capacity is not fully nominated, customers have the ability to purchase some of the unused capacity. According to CNE-Gas, the record supports an increase in the number of days on which capacity entitlement is based. (*See* IIEC/CNE Joint Exhibit 1, pages 10-11; IIEC/CNE Joint Exhibit 2, pages 11-13. *See also* CNE-Gas Exhibit 1.0, lines 204-211; CNE-Gas Exhibit 2.0, lines 445-451.)

Related to this issue of SBS capacity entitlement is transportation customers' access to residual SBS capacity, which Nicor Gas currently allows after all customers make their initial SBS elections. CNE-Gas avers that it is extremely important to transportation customers that this existing practice be maintained. CNE-Gas recommends that to maintain a level playing field between transportation customers and Nicor Gas's Hub Services, Nicor Gas ensure that residual SBS capacity be made available to Hub Services only after transportation customers have had their opportunity. (*See* CNE-Gas Exhibit 2.0, lines 635-664.) Similarly, CNE-Gas requests that

the Commission recognize the importance of allowing transportation customers to continue to have the opportunity to select residual SBS capacity after the initial election period is completed. (*See* CNE-Gas Exhibit 2.0, lines 635-643.)

As a group, transportation customers must have the opportunity to acquire residual capacity that is initially made available to transporters. CNE-Gas requests that Nicor Gas be directed to clarify in this tariff provision that residual storage capacity will be made available first to transportation customers and their transporters before such capacity is presented to Hub Services, an unregulated affiliate of Nicor Gas. According to CNE-Gas, the basis for the recommendation is that Hub Services should not receive any preference by Nicor regarding the use of storage services. (*See* CNE-Gas Exhibit 2.0, lines 639-643.) As a protective measure, CNE-Gas states that if Hub Services are afforded greater benefits and limits on storage, such as provided greater injection rights than the comparable limits placed on transportation customers, the Commission should require that Nicor submit a monthly report detailing all of these occurrences along with an explanation of why such different or preferential treatment is justified. (*See* CNE-Gas Exhibit 2.0, lines 645-656.)

CNE-Gas further recommends that the Commission direct Nicor Gas to amend its tariff to include a provision that clarifies that when bids are sent out for additional storage capacity there should be two bids issued. The first bid should be sent to existing transportation customers who are already paying for Nicor Gas system storage. These customers should be entitled to the first opportunity since they are paying the cost of this storage. If additional capacity remains after the first bids, then subsequent bids can be sent to other parties who are not already paying the cost of system storage but who are interested in buying any remaining storage capacity. (*See* CNE-Gas Exhibit 2.0, lines 658-664.)

CNE-Gas notes that in 2004 and 2005, SBS capacity was fully subscribed by transportation customers, yet Nicor Gas allocated SBS capacity to Nicor Hub Services. (*See* Nicor Gas Response to CNE-Gas On The Record Data Request 1.01.)

Nicor Gas' Response

In regard to Staff's calculation of coincident peak, Nicor noted that Staff had not corrected its figures for Nicor Gas' recent reclassification of working gas when reviewing historical numbers. Nicor Gas showed that the reclassification must be considered to compare historical averages with the test year forecast. When corrected for Nicor Gas' reclassification, the averages of the last three, five and ten years would be 136, 138, and 133 Bcf. (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0) These corrected averages result in an allocation of 25 times MDCQ, not 27 as reported in the Staff testimony.

In regard to the suggestion to use the non-coincident peak volume of 149.74 Bcf for the storage allocation numerator, Nicor Gas presented several arguments indicating why using that figure would be incorrect. First, Nicor Gas points out that the non-coincident capacity is the total of the capacity of each storage field, even though they reach their maximum capacity level on different days. Therefore, 149.74 Bcf does not represent the capacity of the system as a whole at any particular time. Accordingly, Nicor Gas argues that even if one were to use total working

gas, instead of estimated gas actually cycled as Nicor Gas proposes, one should use the coincident maximum volume as suggested by Staff. This figure was 132 Bcf in 2004, which results in an allocation of 25 times MDCQ. (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0)

Nicor Gas argued that total working gas, even the coincident total, is not, however, the correct figure. Total working gas is an amount which, in theory, Nicor Gas could draw out of its fields and reinvest over the course of a year under ideal conditions. One of those ideal conditions is that Nicor Gas would be able to draw its working gas down to zero before beginning to inject gas to meet its requirements for the following season. According to Nicor Gas, this is something that Nicor Gas cannot prudently do. (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0)

Nicor Gas presented evidence that the ability to deliver gas at a given rate is directly related to the amount of gas in the fields. For example, Nicor Gas must maintain its maximum deliverability from storage of 2.5 Bcf in a single day, as late as January 20 of the season. Accordingly, in order to meet its required targets late in the withdrawal season, Nicor Gas argues that it will always be necessary to have some gas left "in the tank" when it comes time to begin injecting for the following season. (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0)

Nicor Gas highlights that transportation customers are free to withdraw all their gas before Nicor Gas' design day (January 20), refill their storage, and withdraw it all again by April 1. They do not need to consider the necessary reservoir pressure to achieve a target deliverability, and do not face a reduction in the amount of gas they can withdraw, so long as they have gas in storage.

According to Nicor Gas, the amount of storage that is allocated to Hub Services is primarily driven by the transportation customer selection of the amount of their allocated capacity compared to their total capacity rights, and then making available to Hub Services the difference, or in other words that amount of storage capacity that will be underutilized by sales, transportation and Customer Select customers. (Tr. 465-466.) At some times, for example October 2002, the amount of storage allocated to transportation customers can be roughly equivalent to the volume that is assigned to Hub Services. (Tr. 546-547; *See also* CNE Cross Exhibit 3.) In other years, for example October 2004, the volume allocated to Hub Services is less than that provided to the transportation class. (*See also* CNE-GAS Cross Exhibit 3.)

Commission Conclusion

Contrary to Nicor Gas' assertions, it is appropriate to allocate physical capacity instead of its estimated amount of gas that will be cycled. (*See* Nicor Gas Exhibit 39.0, lines 226-227.) As Dr. Rosenberg explains, the SBS capacity entitlement is an entitlement of capacity. (*See* IIEC/CNE Joint Exhibit 2, page 11, emphasis added.) The 120 Bcf figure used by Nicor Gas to support its proposal (from 26 to 23 days) is not a capacity figure but its expected cycling figure; that is, the amount of gas that Nicor Gas estimates it will cycle on an annual basis, not the total working gas capacity of its storage fields or even the average coincident peak for working gas in storage over the past 10 years. The record evidence regarding Nicor Gas' own average coincident peak over the past 10 years supports the proposals offers by Staff, IIEC, and CNE-

Gas. For the past 10 years, sales customers have not been disadvantaged due to transportation customers' access to 26 days times their MDCQ.

Accordingly, the Commission rejects Nicor Gas' proposal to reduce the number of days times MDCQ. In addition, the Commission believes that the record supports adoption of the use of 27 days times MDCQ. In addition, when transportation customers are denied all the storage capacity they desire, Nicor Gas is prevented from allocating storage to Hub Services until that time as all transportation requests for storage capacity have been met. Nicor Gas is directed to file a tariff consistent this finding and the recommendation of CNE-Gas that is described above.

The Commission notes that in its Initial Brief, Dominion proposes that Nicor change the way in which it allocates storage capacity to customers. Dominion acknowledged that it did not present any record evidence to support this proposal. (*See* Dominion Initial Brief at 9.) In addition, it is apparent Dominion's proposal would have significant ramifications for transportation customers. Accordingly, the Commission rejects Dominion's argument on this issue.

(2) Storage Withdrawal Rights

Nicor Gas' Proposal

Nicor Gas has proposed rates which impose increased withdrawal limitations on Operational Flow Order (OFO) Shortage Days and Critical Days. Using the same methodology as approved in its last rate case, Nicor Gas updated the calculation using its current operating conditions and capabilities. As reflected in proposed tariff sheets 74, 76, and 77 and Rider 13, Nicor Gas proposes to decrease the cap on permitted withdrawals on a Critical Day or OFO Shortage Day from 0.023 times the customer's selected SBS capacity to 0.021 times that capacity. (Nicor Gas Ex. 12B.1)

Nicor Gas presents two reasons for the proposed decrease. First, Nicor Gas argues that its storage assets have a finite amount of withdrawals that can take place on any one day, therefore if Nicor Gas is to be able to serve all customers, it cannot allow unlimited withdrawals on a Critical Day or an OFO Shortage Day. Second, according to Nicor Gas, Critical Days and OFO Shortage Days require careful planning. Thus, Nicor Gas argues that large and unpredictable withdrawals by SBS customers could cause Nicor Gas to exceed its physical maximum daily withdrawal capacity.

Staff Position

Staff supports Nicor Gas' proposal to increase the limitation on withdrawals during Critical days and OFO shortage days. (Staff Ex. 8.0)

RGS' Position

RGS opposed the reduction for the reason that Nicor Gas used a planned cycled amount a 120 Bcf, rather than a higher number in determining the 2.1% limit. RGS argues that Nicor Gas

should use a figure of 149.74 Bcf, which represents the sum of non-coincident capacity of Nicor Gas' eight storage fields. (RGS Ex. 1.0)

CNE-Gas' Position

CNE-Gas asserts that the impact of Nicor Gas' proposed reduction in storage withdrawal rights is magnified by Nicor's proposal to implement cycling requirements. CNE-Gas argues that if Nicor Gas receives approval to implement cycling requirements, the Commission should not also simultaneously approve a reduction in storage withdrawal rights. The reason is that by simply reducing storage withdrawal rights to 2.1%, this has roughly the same effect as missing the storage cycling fill-target by 10% even when no cycling requirements are in place. According to CNE-Gas, to implement both a reduction in storage withdrawal rights and cycling requirements at the same time, compounds the adverse impact on customers, resulting in a more significant reduction to storage withdrawal rights for any customer that does not achieve target levels. (*See* CNE-Gas Exhibit 2.0, lines 466-478.)

Nicor Gas' Response

It is Nicor Gas' position that in order to serve all customers on a Critical Day without undue cost shifting, it is important that customer access to storage reflects the Nicor Gas' overall capabilities. (Nicor Gas Ex. 8.0)

Commission Conclusion

As described previously, the Commission finds that Nicor Gas has not shown that the appropriate figure to use is the expected cycle volume of 120 Bcf. Given the support of Staff, IIEC, and CNE-Gas for a capacity value such as 149 Bcf, the reduction from 2.3% to 2.1% of a customer's storage withdrawal rights is not reasonable.

(4) Maximum Daily Nomination

Nicor Gas' Proposal

The daily nomination is the amount of gas a transportation customer can deliver to Nicor Gas for use or additions to storage. Nicor Gas proposes that maximum daily nominations by transportation customers during the heating season be reduced from two times the customer's MDCQ to one times the customer's MDCQ. According to Nicor Gas, the basic principle underlying the change is that winter injections run counter to Nicor Gas' overall objectives to cycle its fields. (Nicor Gas Ex. 12B.0)

Staff's Position

Staff supports Nicor Gas' proposal to reduce maximum daily nominations by transportation customers during the heating season.

Vanguard/CNE-GAS/IIEC's Position

Vanguard, CNE-GAS, and IIEC suggests that Nicor Gas should not be restricting gas flow into the system during the cold months when gas use is at its highest. (IIEC Ex. 2)

CNE-Gas' Position

According to CNE-Gas, Nicor Gas has failed to provide any empirical evidence that substantiates the need for this reduction in daily nominations which makes an already limited situation more restrictive for transportation customers. In addition, CNE-Gas avers that Nicor did not demonstrate that any harm accrues to sales customer through retaining the current limit of 2 times the MDCQ. (*See* CNE-Gas Exhibit 2.0, lines 617-633.) CNE-Gas also cautions that this proposal could harm sales customers, since during this time period gas prices are often higher than during the rest of the year. (*See* IIEC/CNE Joint Exhibit 1, lines 9-17, page 9.)

RGS' Position

RGS claims that Nicor Gas' proposal "discriminates" against transportation customers because Nicor Gas injects gas into storage during the winter to restore field performance. RGS argues that since Nicor Gas injects gas during the winter, it is unduly attempting to prevent transportation customers from having the same flexibility. (Ex. 1.0)

Nicor Gas' Response

Nicor Gas states that its proposal still allows transportation customers to nominate their entire MDCQ during the winter and continues to provide excellent flexibility for transportation customers without placing an undue burden on Nicor Gas and the retail customers. Since transportation customers are not using their MDCQ every day, all transportation customers will have the flexibility to do some re-injection in the winter. According to Nicor Gas, the extreme flexibility currently in place for one segment of customers runs directly counter to Nicor Gas' goal of cycling its storage as a whole. (Nicor Gas Ex. 24.0)

Nicor Gas responded to Vanguard's, CNE-GAS', and IIEC's arguments, stating that based on experience running the storage fields, Nicor Gas' proposed limits will not reduce gas deliveries to the system on cold days when Nicor Gas needs it most. Nicor Gas highlights that since the limit is set at the maximum daily usage, not average use or actual use, some re-injection will be possible. (Nicor Gas 39.0)

In regard to RGS' argument, Nicor Gas states that there is no discrimination. Indeed, according to Nicor Gas, even one MDCQ is more flexibility than Nicor Gas' system actually has: the system equivalent of all customers' MDCQ is its worst case "design day," and Nicor Gas cannot actually inject its full design day amount of gas on any day of the year, let alone a day in the withdrawal season. (Nicor Gas Ex. 24.0) Storage fields cannot perform at peak withdrawal rates continuously. Withdrawals at high rates impact subsequent days, and Nicor Gas argued that it may need to re-inject gas to be able to meet demand for all customers, including transportation customers. According to Nicor Gas, transportation customers will have significant flexibility to re-inject gas during the withdrawal season. (Nicor Gas Ex. 39.0)

The Commission's Conclusion

Nicor Gas has proposed limitations on the use of Nicor Gas' storage assets purportedly to prevent transportation customers from acting in a manner counter to that needed to maintain the storage asset. The Commission is concerned that Nicor Gas' proposal to reduce maximum daily nominations by transportation customers during the heating season from two times the customer's MDCQ to one times the customer's MDCQ may not provide transportation customers with sufficient flexibility. Therefore, the Commission rejects Nicor Gas' proposed reduction in maximum daily nominations.

(5) Intraday Nominations

CNE-Gas' Proposal

CNE-GAS proposes that Nicor Gas accept amended nominations during the course of a day. Specifically, CNE-Gas has proposed that Nicor Gas be mandated to include in its tariffs intraday nomination cycles, specifically: the Evening Cycle, Intraday 1 and Intraday 2 cycles, along with the Timely Cycle which Nicor Gas currently accepts. (*See* CNE-Gas Exhibit 1.0, lines 216-258; CNE-Gas Exhibit 2.0, lines 267-271.) CNE-GAS pointed out that the North American Energy Standards Board (NAESB) standards allow intraday nominations. CNE-GAS argued that intra-day nominations would allow transportation customer increased flexibility to respond to numerous unexpected reasons, including weather conditions, changes in a customer's production schedules, or due to a pipeline or utility system disruption after the Timely Cycle deadline has passed. (*See* CNE-Gas Exhibit 2.0, lines 271-278.) CNE-GAS cited to over 26 other gas utilities in the upper Midwest region contiguous to the state of Illinois that have implemented the use of intraday nominations as evidence that Nicor Gas should allow intraday nominations. (CNE-GAS Ex. 1.0)

CNE-Gas provided suggested tariff language for intraday nominations. (*See* CNE-Gas Exhibit 2.3.) This ability that CNE-Gas seeks would be similar to what Nicor's own internal supply operations personnel can do, who use this capability to help maintain supply stability. (*See* CNE-Gas Exhibit 1.0, Exhibit C; CNE-Gas Exhibit 2.0, lines 271-278.) CNE-Gas suggests that transportation customers deserve the same option for the same reason – to help customers manage their load requirements when unanticipated changes occur.

Nicor Gas' Position

Nicor Gas argues that the NAESB guidelines cited by CNE-GAS are irrelevant as the NAESB guidelines are written for, and applicable to, interstate pipeline transactions, not local distribution companies. Nicor Gas indicated that it does follow the NAESB standards to the extent required for the efficient coordination with interstate pipelines or gas suppliers. (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0)

Second, Nicor Gas points out that in judging tariffs one needs to look at the rules of a utility as a whole, because there are numerous provisions, and in each utility some may be unfavorable and some may be favorable provisions. Thus, Nicor Gas pointed out that when the actual tariffs of one of the utilities cited by CNE-Gas were examined, it was revealed that the utility requires suppliers to match deliveries with use on a daily basis, making intraday nomination more appropriate. (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0)

Third, Nicor Gas indicated that it does allow the intraday amendment of nominations at the only time it would likely be of significant use to a marketer: during a Critical Day or OFO Shortage Day, including over a weekend. Nicor Gas argues that in the real world, there is little reason to need to change a nomination over the course of a single day, absent severe weather.

Finally, Nicor Gas stated that its does not have systems in place to implement CNE-GAS' proposal and that adopting such a proposal is not practical until Nicor Gas has in place the systems that would be necessary to implement this. (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0).

CNE-Gas' Response

CNE-Gas cites four (4) provisions in Nicor Gas' existing tariffs contain that independently control the manner and extent to which transportation customers deliver gas into the Nicor Gas system that would render any assertions regarding threats to safe and reliable operation of Nicor's system moot. **First**, to assist Nicor Gas in monitoring a customer's deliveries and usage, a transportation customer on Rates 74, 76, or 77 must have a telephone line installed and Nicor Gas also installs a daily usage recording device. (*See* Ill.C.C. No. 16-Gas, 2nd Revised Sheet No. 46.) **Second**, transportation customers are also required to establish a MDCQ of natural gas which remains effective for a 12-month billing period. Nicor can refuse to allow a transportation customer an MDCQ that it believes to be unreasonably high. (*See* Ill.C.C. No. 16-Gas, 5th Revised Sheet No. 47.) **Third**, Nicor Gas is not obligated to accept a transportation customer's gas when nominations do not comply with Nicor's tariff procedures, and Nicor Gas controls the order of deliveries of gas into its system. (*See* Tariff Sheet, Ill.C.C. No. 16-Gas, 3rd Revised Sheet No. 49.) **Fourth**, Nicor Gas determines a customer's authorized and unauthorized use levels, and can terminate a customer with one-hour's notice if an unauthorized use level interferes with Nicor Gas's operations of its system. (Tariff Sheet, Ill.C.C. No. 16-Gas, 3rd Revised Sheet No. 51)

In addition, CNE-Gas avers, while Nicor Gas currently only accepts the Timely Cycle nomination, Nicor Gas does so electronically through its Electronic Nomination System available on Nicor's website at Gas Exchange. (*See* Nicor http://www.nicor.com/en_us/commercial/gas_xchange/nom_system_download.htm#elec_nom.) Utilities that currently allow intraday nominations in conjunction with the Timely Cycle nomination typically incorporate additional windows on their electronic bulletin board to accept intraday nominations; some make pre-arranged schedules with transportation customers and marketers in which utility personnel "let the customer/marketer back into" their electronic system to make the subsequent intraday nomination. In either case, CNE-GAS claims, if additional costs are incurred by Nicor Gas to accommodate intraday nominations, transportation customers and marketers would expect such costs to be recovered through transportation-related charges. According to CNE-Gas, there is no need for, nor would CNE-Gas expect, non-transportation customers to pay for the cost of a service not providing such customers any benefit.

Commission Conclusion

The Commission agrees that the need to adjust nominations can arise for numerous unexpected reasons. Industry standards and the fact that numerous other Illinois and Midwestern utilities allow intraday nominations, give the Commission guidance on this issue. In addition, contrary to Nicor Gas' assertions, CNE-Gas has suggested tariff language for the Commission to adopt. The Commission is persuaded that Nicor Gas' current system is unjust and unreasonable. Therefore, the Commission adopts CNE-GAS' proposal to allow intraday nominations and directs Nicor Gas to file tariffs consistent with the recommendations of CNE-Gas.

(b) SBS Charge

Nicor Gas' Proposal

Transportation customers may select, within limits, a level of Storage Banking Service (SBS), and pay a separate charge for that service. Nicor Gas has proposed an SBS charge in this proceeding by taking the cost of storage, as developed by its ECOSS, subtracting the cost related to top gas (since transportation customers supply their own gas), and dividing by the amount of gas that Nicor Gas expects to cycle (inject and withdraw) in a season. No party disputed that this was conceptually a valid calculation.

IIEC's Position

IIEC argues that Nicor Gas did two things wrong in selecting the numbers for its calculation. First, IIEC argues that Nicor Gas should have credited Hub revenues to the cost number in the numerator. Second, IIEC claims that Nicor Gas should have used total non-coincident maximum top gas, 149.47 Bcf, rather than the 120 Bcf figure for expected gas cycled. (IIEC Ex. 1)

CNE-Gas' Position

CNE-Gas describes Nicor Gas' multitude of changes to its SBS as resulting in (a) reduced storage volume; (b) less flexibility in using that storage capacity; and (c) a slight reduction in the charge for the service. CNE-Gas takes issue with Staff's suggested increase of the SBS charge by 15% to $ 0.0045. CNE-Gas argues that Staff's revised proposal is in error as it incorrectly allocates costs to transportation customers that should not be allocated to transportation customers.

CNE-Gas also avers that such an increase in the rate of this service is especially unwarranted if it occurs in tandem with the diminished value to SBS service that will result if the many changes proposed by Nicor Gas to SBS service are adopted in this proceeding. (*See* CNE-Gas Exhibit 2.0, lines 427-433.) According to CNE-Gas, among transportation customers, the increase to SBS is in addition to other rate increases proposed; rate hikes of 50%, 100% or even 500% if ICC Staff's rate design proposal is approved. (Tr. 1323-1327.)

Nicor Gas' Response

Nicor Gas responded to IIEC's proposal regarding the correct numerator and denominator in the calculation. Nicor Gas argues that IIEC is incorrect in stating that Hub revenues should be credited to the cost number in the numerator as discussed previously. Nicor Gas' arguments in favor of using the 120 Bcf figure for expected gas cycled are the same as those discussed previously in section IX(B)(3)(a). (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0)

Commission Conclusion

IIEC argues that the SBS charge should be set using a credit to transport customers for Hub revenues and the non-coincident peak value for the cycled gas figure. However, as previously discussed in sections IX(B)(8)(a)(1) and IX(B)(8)(a)(2) respectively, the Commission finds that these proposals are inappropriate. Therefore the Commission approves Nicor Gas' proposed SBS charge.

(c) Cycling

Nicor Gas' Proposal

Underground aquifer fields, including all the gas storage fields owned by Nicor Gas, physically require that gas be seasonally cycled – that is, that gas be injected to near capacity and then drawn down each year. Nicor Gas asserts that failure to properly cycle the storage fields would lead to loss of capability in the short run, and possibly, in the long run as well. (Nicor Gas Ex. 8.0)

Nicor Gas proposes to establish cycling targets for the use of gas storage by end use transportation customers. Specifically, Nicor Gas proposes that failure to bring stored gas levels to at least 90% by November 1 would result in reduction of Critical Day and OFO Shortage Day withdrawal capability, and failure to reduce balances to 10% or less of the maximum inventory level by April 1 would result in a reduction in the customer's daily summer injection rights. Nicor Gas believes that this leaves transportation customers with significant flexibility; a transportation customer can draw its entire storage down to zero during the winter season, fill it back up, and suffer no consequences so long as it draws down to 10% before April 1. (Nicor Gas Ex. 8.0)

Under the current regime, in which there are no cycling targets for transportation customers, Nicor Gas argues that it is entirely possible, and even likely, that individual customers will actually work against Nicor Gas' attempts to cycle its storage fields. According to Nicor Gas, to the extent that end use transportation customers elect to withdraw and inject gas in a manner inconsistent with the physical requirements of the fields, Nicor Gas and its customers must either suffer a degradation of this valuable asset, or Nicor Gas must use its own purchases to compensate. (Nicor Gas Ex. 8.0)

Staff's Position

Staff supports Nicor Gas' proposal for a 90% gas in storage requirement by November 1. However, Staff disagrees with penalty provision proposed by Nicor Gas. In addition, Staff disagreed with the requirement to cycle all but 10% by April 1.

IIEC's Position

IIEC opposes Nicor Gas' proposals to require transportation customers to cycle their storage. IIEC highlights that neither Hub customers nor Nicor Gas itself cycle to the proposed levels. In addition, IIEC argues that the storage fields need not be cycled by November 1 and April 1, as these dates are driven by the space heating needs of the sales customers. (IIEC/CNE Jt. Ex. 1)

CNE-Gas' Position

CNE-Gas opposes Nicor Gas' proposals to require transportation customers to cycle their storage arguing that Nicor Gas has failed to demonstrate the need and the appropriateness for the proposed cycling requirements. According to CNE-Gas, Nicor Gas' own history in operating its storage fields demonstrates that the proposed cycling requirements are operationally unnecessary. During the past 10-year period, Nicor Gas has been able to properly cycle its storage fields, in the manner and to the levels deemed necessary, to meet its own operational and seasonal requirements without any maximum or minimum storage level requirements imposed on transportation customers. Nicor Gas has never failed to properly cycle its storage fields in spite of no cycling requirements for transportation customers. (*See* IIEC/CNE Joint Exhibit 1, lines 1-7, page 6; *See also* Tr. 505-506.)

In addition, over this 10-year period of time Nicor Gas itself has not met the target levels it wishes to impose on transportation customers in maintaining its System Customer Storage level. According to CNE-Gas, Nicor Gas has not linked the need for these cycling requirements to either maintaining the operational integrity of its storage fields or protecting Nicor Gas and its customers from losing this asset or paying more for it. (*See* IIEC/CNE Joint Exhibit 1, lines 7-12, page 8.)

Since CNE-Gas does not believe that Nicor Gas has met its burden of proof that cycling requirements are necessary, if the Commission is considering the approval of cycling requirements for Nicor Gas, CNE-Gas recommends that one additional step be taken – an independent verification of the Fairchild-Wells study that Nicor Gas relies on, at least in part, to support its need for cycling requirements. (*See* CNE-Gas Exhibit 2.0, lines 515-526.)

While CNE-Gas does not believe that Nicor Gas has justified the need for cycling requirements, if the Commission finds that Nicor Gas has met its burden of proof that cycling requirements are just and reasonable, CNE-Gas recommends that the Commission reject Nicor Gas' arbitrary and unsupported target levels. In addition, if the Commission finds that Nicor Gas has met its burden of proof that cycling requirements are just and reasonable, CNE-Gas argues that the compliance and penalty provisions of its proposal must be modified.

According to CNE-Gas, a more moderate target level would be sufficient particularly, given the absence of any operational emergency, or even need, presented by Nicor Gas for justification for the proposed cycling requirements. Using Nicor Gas' own most recent experience, the most stringent April 1 target warranted would be 32%. (*See* CNE-Gas Exhibit 2.0, lines 490-495; CNE-Gas Exhibit 2.4.) CNE-Gas believes a target level at 50% would meet the Commission's goal of moderation. (*See* CNE-Gas Exhibit 2.0, lines 496-514.) This is a

level that is similar to what is used by Natural Gas Pipeline (NGPL) in its DSS tariff. (Tr. 563.) According to CNE-Gas, Nicor Gas admitted that it could implement other target levels, but had performed no study or analysis to support other levels. (Tr. 571-572.)

If the Commission concludes that Nicor Gas has met its burden of proof that cycling requirements are just and reasonable, CNE-Gas recommends that the Commission should reject the 90% November 1 target requirement, or at minimum accept only a very moderate target such as 75%.

If the Commission concludes that cycling requirements are reasonable, CNE-Gas suggests that compliance with the target levels be measured over a period of time, such as the 30-day period used by Natural Gas Pipeline, instead of through a single, specified date. (Tr. 720.) Nicor Gas seeks compliance at a single specified point in time, however, the customer or marketer may not have operational data available from Nicor that clearly delineates the volume that is currently in a customer's SBS account until days after the fact. (*See* CNE-Gas Exhibit 2.0, lines 211-217.) According to CNE-Gas, this reporting delay complicates the ability of a customer or marketer to achieve a specific percentage-fill at a single point in time, especially as a day or two of customer's usage could represent 10% or more of a customer's storage account capacity. (Tr. 562.) A lag of several days (e.g. 3-6 days) before receiving daily usage reports makes it virtually impossible to know actual storage levels within 10% accuracy at a particular point in time.

CNE-Gas also argues that the proposed penalty provisions by Nicor Gas for noncompliance with the target levels are punitive and do not provide incentives for compliance. In particular, according to CNE-Gas, the penalty for noncompliance with the April 1 target, as proposed, would make it difficult for a customer to comply with the subsequent November 1 target; thereby, potentially ensuring continued noncompliance rather than providing an incentive to comply. (*See* CNE-Gas Exhibit 2.0, lines 559-569.) Accordingly, CNE-Gas supports Staff's alternative penalty structure that provides better correlation between cause and effect. (*See* CNE-Gas Exhibit 2.0, lines 549-558.)

Nicor Gas' Response

Nicor Gas stated, and IIEC agreed, that for Nicor Gas to compensate for the actions of the transportation customers when those actions run counter to the required cycling of the fields, Nicor Gas must deviate from its own planned purchases. Nicor Gas argues that as a result, the transportation customers effectively force Nicor Gas to alter its purchases, even if it results in added costs – purchases when the price is high, or scaling back purchases even though the price is low. These costs are borne, Nicor Gas claims, by the sales customers, even though cycling is a necessary action that benefits all customers on the Nicor Gas system. (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0)

Nicor Gas presented evidence that in the summer of 2004, prices were expected to go down, and transportation customers held off on their purchases for storage. Nicor Gas, in order to get the fields up to the required levels, had to act, despite the prices, to acquire the needed gas. Then, in late summer, expectations changed, and higher prices were predicted. According to Nicor Gas, transportation customers began increasing injections aggressively, attempting to fill

space in October that Nicor Gas had already filled. Nicor Gas claims it was forced to reduce its own purchases, contrary to what it would want to do based on price expectations. (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0)

In regard to the transportation customers' argument that Nicor Gas itself does not meet the cycling targets it wants to set, particularly on the Spring 10% withdrawal side, Nicor Gas raised several points. First, Nicor Gas argues that it is not appropriate to look at the total volume of working gas that Nicor Gas cycles, because, as discussed in Section IX(B)(8)(a)(1) of this Order, Nicor Gas prudently does not cycle every therm of its working gas. Thus, according to Nicor Gas, only the gas that Nicor Gas plans to cycle is allocated to the transportation customers. Second, Nicor Gas contended that the system-wide minimum gas storage level is not an accurate indication of Nicor Gas' cycling. Nicor Gas presented evidence that Nicor Gas' fields do not reach their minimum level all at the same time, so that on any particular day, the system-wide level may not reflect the minimum for a particular field. (Nicor Gas Ex. 24.0; Nicor Gas Ex. 39.0)

According to Nicor Gas, the arguments made by the intervenors, and picked up in part by Staff, that there are various operational things Nicor Gas could do to cycle its fields even with the transportation customers continuing to work against it, ignore the cost of these solutions. Nicor Gas admits that it is "physically capable" of cycling its fields, even without the proposed incentives. However, Nicor Gas argues that the issue is not whether Nicor Gas can cycle, but rather who should bear the cost of this cycling when Nicor Gas is forced to take actions to get it done. These costs of operating the system and compensating for the actions of the transportation customers fall primarily on the sales customers.

Commission Conclusion

It is undisputed that cycling is a critically important part of managing gas storage fields. Nicor Gas' own history in operating its storage fields demonstrates that the proposed cycling requirements are operationally unnecessary. During the past 10-year period, Nicor Gas has been able to properly cycle its storage fields, in the manner and to the levels deemed necessary, to meet its own operational and seasonal requirements without any maximum or minimum storage level requirements imposed on transportation customers. Nicor Gas has never failed to properly cycle its storage fields in spite of no cycling requirements for transportation customers. Therefore, the Commission rejects Nicor Gas' cycling requirements.

[If the Commission adopts cycling requirements, then add the following to the Commission conclusion]

As a condition to allowing Nicor Gas to implement cycling requirements, the Commission directs Nicor to conduct an independent verification of the Fairchild-Wells study that Nicor Gas relied upon to support its need for cycling requirements.

In addition, the Commission believes that the record supports more moderate target levels, particularly given the absence of any operational emergency, or even need, presented by Nicor Gas for justification for the proposed cycling requirements. An April 1 target level at 50% and a November 1 target level t 75% would be more appropriate.

Further, compliance with the target levels should be measured over a 30-day period of time, instead of a single, specified date.

Finally, the Commission adopts Staff's alternative penalty structure as it provides a better correlation between cause and effect.

(1) Super-pooling

CNE-Gas' Proposal

CNE-GAS proposes that Nicor Gas allow "super-pooling" of storage volumes for all groups of customers under common management of the same supplier in determining overall compliance with target cycling levels. (CNE-GAS Ex. 2.0) Super pooling is a rather simple and straight-forward process where the total storage volumes for all groups of customers under the common management of the same marketer are used to determine compliance with both the November 1 and April 1 target level. (*See* CNE-Gas Exhibit 2.0, lines 435-443, 592-608.) CNE-GAS argues that it is a tool for transportation customers and marketers to mitigate the extremely negative rate impacts of Nicor's proposed cycling requirements and target levels. CNE-GAS argues that the proposed super pools will not affect sales customers or operation capabilities.

Nicor Gas' Position

Nicor Gas does not support this proposal. Balancing for each individual group will result in increased incentives for the supplier to meet the cycling requirements and better conformance to the cycling requirements. It would provide a benefit to all customers that suppliers meet the cycling requirements at the group level, not groups of groups. (Tr. 719; Nicor Gas Ex. 44.0) in addition, the proposed targets of 90%/10% were based on the existing pool sizes. If super-pools are accepted, Nicor Gas states that the targets should be changed to closer match 100%/0%. (Tr. 719; Nicor Gas Ex. 44.0)

CNE-Gas' Response

CNE-Gas asserts that if Nicor Gas is truly interested in simply ensuring the cycling of gas volumes, then there is no logical reason to object to the pooling of gas between groups in order to determine compliance with the target levels. According to CNE-Gas, Nicor Gas simply failed to provide any substantive reason why super pools would not achieve the cycling requirements it wishes to impose.

Commission Conclusion

The Commission is not persuaded by Nicor Gas that super-pooling will affect Nicor Gas' operational capabilities. However, the Commission believes the super pools would help

facilitate Nicor Gas' goal of cycling gas volumes by helping marketers and their customers to reach compliance with target levels.

As a condition to imposing cycling requirements, the Commission directs Nicor Gas to implement Super Pooling. Accordingly, CNE-GAS' proposal to allow for super-pooling of storage volumes is adopted.

(d) Level of Rate Increase

Nicor Gas' Proposal

Nicor Gas stated that it is currently experiencing a $61,726,000 revenue requirement shortfall, assuming acceptance of its proposed rate design changes relating to Rider 6, or $77,573,000 without them, and thus Nicor Gas is proposing an increase in the revenue requirement in this proceeding. (Nicor Gas Ex. 26B.0) In addition, Nicor Gas has proposed to reallocate costs to customer classes to more accurately reflect the cost of servicing those customers, as discussed previously. As such, Nicor Gas states that the revenue requirement and rate design considerations necessitate an increase in various rates, including those for transportation customers, i.e., Rates 74, 76, and 77. (Nicor Gas Exs. 17.0, 32.0, 44.0)

CNE-GAS' Position

CNE-GAS has opposed Nicor Gas' proposed increase to transportation rates as being too great from a policy standpoint. (CNE-GAS Ex. 1.0) The impact of Nicor's original rate design on Rate 74 customers using more than 240,000 therms annually is 30% or higher. (*See* CNE-Gas Exhibit 1.0, lines 56-58.) Staff's original rate design suggests even more severe results for these customers, increases of 63% to 100%. For Rate 76 large volume customers, Nicor's original rate design results in 40% to 42% increases, while Commission Staff's recommended rate design produces 46% to 51% increases for the CNE-Gas customers analyzed. (*See* CNE-Gas Exhibit 2.0, lines 83-89, 665-681; CNE-Gas Exhibit 2.1.) For certain transportation customers, under Commission Staff's proposed rate design proposal customers could experience rate increases of 50%, 100% or even 500%. (Tr. 1323-1327.)

Rate increases of the magnitude proposed for Rate 74 and 76 customers are counter to the concepts of rate stability and gradualism, would be extremely harmful to Illinois industry, and negatively affect economic development in Illinois. (*See* CNE-Gas Exhibit 1.0, lines 125-164; CNE-Gas Exhibit 2.0, lines 94-98, 179-185.) As noted by ICC Staff Witness Luth, gradualism is one of the reasonable considerations of ratemaking. (Tr. 1316, 1319.) Rate increases of 70% or more could result in the loss of industrial load as customers revisit their operations. This could ultimately lead to the necessity to file additional rate cases. (Tr. 669-670.) While a typical residential customer experiences a 7.3% rate increase under Nicor's original proposal, and a 2% decrease under Commission staff's recommendation, a large transportation customer's utility distribution bill could nearly double in magnitude. (*See* CNE-Gas Exhibit 2.0, lines 100-109.) While even a 7% rate hike can result in hardship for certain customers, doubling rates are problematic for a greater number of customers. If a rate increase of the magnitude proposed by Nicor or Commission Staff is approved, the Commission should phase-in such steep rate hikes over a two-year or longer period. (*See* CNE-Gas Exhibit 2.0, lines 683-694.)

Whatever revenue requirement is approved by the Commission, CNE-Gas recommends that this revenue requirement be allocated across all classes of customers in a fair and equitable manner based upon the concept that the cost-causer pays. CNE-Gas agrees that Rate 74 and 76 customers should shoulder their appropriate burden of any reasonable rate increase. (*See* CNE-Gas Exhibit 2.0, lines 48-55, 142-145.) However, the Commission must also balance other considerations in its decision-making. (*See* CNE-Gas Exhibit 2.0, lines 145-146.) One of those being that the Commission should avoid unnecessary rate shock by phasing-in large percentage increase over a multi-year period. Such action would somewhat mitigate the impact of severe rate hikes on a monthly and annual basis to the affected customers. (*See* CNE-Gas Exhibit 2.0, lines 689-693.)

CNE-GAS witness Mr. Oroni took particular exception with Staff's proposed embedded cost of service study. (CNE 2.0)

IIEC' Position

The IIEC also took issue with the level of rate increase for transportation customers, but from a cost of service standpoint, particularly criticizing Staff's ECOSS. (IIEC Exs. 1.0, 2.0) IIEC's recommendations regarding the cost of service study are discussed supra at Section IX(A) of this Order.

Nicor Gas' Response

Nicor Gas agreed with CNE-GAS that the impact of any rate increase should be given some consideration once the proper revenue requirement has been determined. Starting with its properly constructed ECOSS, Nicor Gas, in its compromise proposal, would still limit the increase to Rate 1, Residential Service as it originally proposed, as discussed earlier in this Order. Nicor Gas proposed to limit the residential class increase to $55.6 million. Nicor Gas further proposed that the total remaining revenue requirement, which would include the remaining $22.0 million revenue increase, be allocated proportionally to the non-residential classes based on the results of the ECOSS (excluding Rates 17 and 19 which have individual contract services). This would result in an increase of about 17.2% in base rates for residential customers and 13.1% for commercial and industrial customers. (Nicor Gas Ex. 44.0)

The Commission's Conclusion

Nicor Gas has asserted that it designed an allocation of its revenue requirement to moderate the otherwise significant increase that residential customers would expect. However, the Commission finds that Nicor Gas' proposed rate increases for transportation customers are severe and appear to shoulder a much larger portion of the rate increase on the backs of transportation customers. The Commission approves Nicor Gas' proposed rate increases in relation to rates 74, 76, and 77, as just and reasonable, on the condition that the proposed rate increases be phased-in over a 2-year period.

9. Rider 13 – Group Size Limitation

CNE-GAS' Proposal

CNE-GAS has proposed to eliminate the size limitation for Rider 13. The current language of Rider 13 allows marketers and transportation customers to be billed as a group, but states that each group shall be limited to 50 accounts. CNE-GAS named fifteen utilities that did not put a size limit on groups. (CNE-GAS Ex. 1.0)

CNE-Gas believes that marketers and transportation customers should determine for themselves what size group makes sense for their own needs. (*See* CNE-Gas Exhibit 1.0, lines 270-274.)

Nicor Gas' Position

Nicor Gas has stated that the current limitation on group size is imposed to maintain efficiency in administering billing and accounting functions at the group level. According to Nicor Gas, suppliers frequently change the make-up of their groups as customers move into and out of groups. Since all customers in a group are billed at the same time, Nicor Gas argues that billing errors typically impact several different customers. In Nicor Gas' opinion, expanding groups beyond 50 accounts increases the potential of billing errors for the group, and increases administrative costs. Nicor Gas points out that although CNE-GAS provided examples of some other utilities which do not limit groups, CNE-GAS could not say how many transportation customers these utilities had compared to Nicor Gas. (Nicor Gas Ex. 27A.0)

CNE-Gas' Response

Absent a showing by Nicor Gas that removing the 50-account group size limit would increase costs to non-transportation customers, this restriction should be removed. In the instant proceeding, CNE-Gas argues that Nicor Gas has failed to make such a showing. If Nicor Gas were able to show that removing this limit would cause Nicor Gas to incur additional costs, which it has not done in this proceeding, then Nicor should be able to recover such costs through an appropriate cost-causer type of charge.

CNE-Gas avers that Nicor Gas offered no formal study or analysis that showed that expanding group size would increase costs, increase billing errors or result in more confusion. (Tr. 712-713, 716-717.) Nicor Gas' own tariff states that changes occurring in a group during the course of a month can only be reflected as of the first of the following month. (*See* CNE-Gas Exhibit 2.0, lines 372-379.) CNE-Gas believes that the larger the group size the less likely a supplier will have the need to make changes.

CNE-Gas believes that removal of the cap on group size would actually save Nicor Gas time and money compared to the current level of administrative costs incurred. (*See* CNE-Gas Exhibit 2.0, lines 396-403.)

Commission Conclusion

Nicor Gas has not shown that removal of the group size limitation would result in unnecessarily increased administrative costs which would be necessary to pass on to customers. Therefore, the Commission adopts CNE-GAS' proposal to remove the limitation on group size.

(Signed) EDWARD C. HURLEY

Chairman